IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1343 OF 2006

Mr. Sandip Sadanand Kajrolkar ....Applicant.

V/s

The State of Maharashtra ....Respondent.

Mr. S.R. Chitnis with Ms. V.R. Raje for the applicant.

Ms. S.D. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 10th April, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant has an apprehension that he is likely to be arrested in connection with C.R. No.I-65/2006 registered at Kapur Bavadi Police Station for the offence punishable under section 498(A) read with section 306 read with section 34 of the Indian Penal Code.

3. The offence was registered against the present applicant on 20/2/2006 after his wife committed suicide at her parents' house by consuming poison. In the suicide note, she has stated that her husband was

a sexual pervert and he used to watch blue films. It is stated in the suicide note that the applicant had an affair with the lady who was staying on the first floor.

4. The learned Counsel appearing on behalf of the applicant, on the other hand, submitted that the deceased was suffering from mental disorder which was diagnosed as paranoid schizophrenia and she was under treatment of Dr. Shrikant Joshi who is a Psychiatrist. A certificate issued by the Psychiatrist is annexed to the application. The learned Counsel submitted that, initially, a complaint under section 498(A) was registered at the Police Station in Thane against the applicant and, in the meantime, his wife committed suicide and, therefore, the offence under section 306 of the Indian Penal code was registered. It is submitted that the applicant had already been granted bail by the learned Magistrate when the first complaint was registered. The applicant has an apprehension that he is now likely to be arrested or his bail is likely to be cancelled in connection with the additional offence which has been added to the said C.R.

5. The learned APP, on the other hand, invited my attention to the statements of other witnesses and the suicide note which was written by the deceased. It is submitted that the mental disorder was caused as a result of the harassment by the present applicant. She submitted that there was enough evidence on record to indicate that the applicant had harassed his wife and that, as a result, she had no other option but to commit suicide.

6. After having given my anxious consideration to the submissions made by the learned Counsel on the either side, in my view, this is a fit case for grant of an anticipatory bail. It is an admitted position that the wife of the applicant was suffering from paranoid schizophrenia. This fact has not been disputed by the prosecution. It is not possible to accept the submissions of the learned APP appearing on behalf of the State that this mental disorder was caused as a result of cruelty at the hands of the present applicant. Normally, the cause of any mental disorder cannot be fathomed and only the expert can point out the reasons for the cause of such illness. The fact remains that the applicant committed suicide after she had left the matrimonial house and after she had lodged a complaint under section 498(A). There was,

therefore, considerable lapse of time after the deceased had left the matrimonial house and after she had filed initial complaint under section 498(A).

7. In these circumstances, in my view, prima facie case is made out for grant of an anticipatory bail. Admittedly, there is no other allegation of harassment for demand of dowry. The applicant, therefore, in the event of his arrest in connection with C.R. No.I-65/2006 registered at Kapur Bavadi Police Station for the offence registered under section 498(A) read with section 306 read with section 34 of the Indian Penal Code, be released on bail in the sum of Rs 10,000/- with one or two sureties in the like amount. The applicant shall report to the concerned Police Station as and when he is called and once in a month after the charge-sheet is filed.

8. Application is accordingly disposed of.

V.M. KANADE, J.